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APPLICATION NO.	FIL DIG C				
	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/090,035	02/28/2002	Carl R. Simmons	35718/242990 (5718-198)	6779	
-	590 04/22/2003				
ALSTON & E	SIRD LLP				
PIONEER HI-E	BRED INTERNATION	IAI INC	EXAMINER		
BANK OF AMERICA PLAZA 101 SOUTH TYRON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000		ERNATIONAL, INC.  AZA  IBRAHIM, MEDINA AHMED  EET, SUITE 4000	IBRAHIM, MEDINA AHMED		
		2 4000	ART UNIT PAPER NUMBER		
			1638		
			DATE MAILED: 04/22/2003	$\sim$	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Medina A Ibrahim			Application N .	1		
Examiner	Office Action Summary			Applicant(s)		
Period for Reply				SIMMONS, CARL R.		
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Bearward of tempty whe waitable under the provisions of 37 CPt 1.13(a). In no event, however, may a reply be limely filled  Bearward of the reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  If the period for reply specified above is less than the communication.  Application is private.  If the period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified above is less than the communication.  If a period for reply specified a period for reply velocity of the capture of the period for reply r		Cammary		Art Unit		
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Extensions of time may be available audies the provisions of 31 CF. 136(a). In no event, however, may a reply be timely filled after St. 6(c) MONTH's from the natiling date of this communication.  1 the period for reply specified above is test than thirty (30) days, a reply within the statutory minimum of thirty (30) days with form the maining date of this communication.  1 the period for reply specified above is test than thirty (30) days, a reply within the statutory minimum of thirty (30) days with so office described period for reply with, by datine, cause the application to become ABANDONED (38 U.S.C. § 133).  2 Any reply received by the Office described period for reply with, by statuto, cause the application to become ABANDONED (38 U.S.C. § 133).  3 Any reply received by the Office described period for reply with the mailing date of this communication, even if timely filled, may reduce any carried period and the statutory of the statuto	Period fo	or Reply	pears on the cover sheet with the c	orrespondenc address		
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## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-4, drawn to isolated polynucleotide sequences, a vector, a recombinant expression cassette, and a host cell comprising said polynucleotide, classified in class 536, subclass 23.6, for example.
  - II. Claims 5-8 and 10-12, drawn to a transgenic plant and seed, and a plant transformation method, classified in class 800, subclass 278, for example.
  - III. Claim 9, drawn to an isolated protein, classified in class 530, subclass 372, for example.

For each of the inventions I-II above, restriction to one of the following inventions (A)-(K) is also required under 35 USC 121. Therefore, election is required of one of inventions I-II and one of inventions (A)-(K). For the invention of Group III, election is also required for one of the polypeptide sequences.

- (A). SEQ ID NO: 1 or a nucleotide sequence encoding SEQ ID NO: 2
- (B). SEQ ID NO: 3 or a nucleotide sequence encoding SEQ ID NO: 4
- (C). SEQ ID NO: 5 or a nucleotide sequence encoding SEQ ID NO: 6
- (D). SEQ ID NO: 7 or a nucleotide sequence encoding SEQ ID NO: 8
- (E). SEQ ID NO: 9 or a nucleotide sequence encoding SEQ ID NO: 10
- (F). SEQ ID NO: 13 or a nucleotide sequence encoding SEQ ID NO: 14
- (G). SEQ ID NO: 15 or a nucleotide sequence encoding SEQ ID NO: 16
- (H). SEQ ID NO: 17 or a nucleotide sequence encoding SEQ ID NO: 18

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- (I). SEQ ID NO: 19 or a nucleotide sequence encoding SEQ ID NO: 20
- (J). SEQ ID NO: 21 or a nucleotide sequence encoding SEQ ID NO: 22
- (K). SEQ ID NO: 23 or a nucleotide sequence encoding SEQ ID NO: 24

The inventions (A)-(K) are distinct, each from the other because of the following reasons:

Inventions (A)-(K) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions comprise structurally different polynucleotides. Also, the different sequences have different effects. In addition, since each polynucleotide is disclosed in specific SEQ ID NO: the structural difference between the polynucleotides has not been shown to be obvious over each other.

The inventions I-III are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the isolated polynucleotide of Group I can be used in a materially different process than the plant transformation method of Group II, such as in a hybridization method.

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Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the polynucleotide of Group I and the polypeptide of Group III are directed to divergent molecules having different composition, structure, function and effect.

Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification and the search required for one group is not required for another, restriction for examination purposes as indicated is proper.

Applicant is advised that the replay to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Papers related to this application may be submitted to Technology Sector 1 by facsimile transmission. Papers should be faxed to Crystal Mall 1, Art Unit 1638, using fax number (703) 308-4242. All Technology Sector 1 fax machines are available to receive transmission 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Medina A. Ibrahim whose telephone number is (703)

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306-5822. The Examiner can normally be reached Monday-Thursday from 8:30AM to 5:30PM and every other Friday 9:00AM to 5:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Amy Nelson, can be reached at (703) 306-3218.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0196.

4/14/03

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AMY J. NELSON, PH.D SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1600